

AMENDED IN SENATE SEPTEMBER 1, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 329

Introduced by Assembly Member Weber
(Coauthor: Assembly Member Cristina Garcia)

February 13, 2015

An act to amend Sections 51930, 51931, 51932, 51933, 51934, 51935, 51936, 51937, 51938, and 51939 of, to amend the heading of Article 2 (commencing with Section 51933) of Chapter 5.6 of, to amend the heading of Chapter 5.6 (commencing with Section 51930) of, to amend and renumber the heading of Article 4 (commencing with Section 51935) and the heading of Article 5 (commencing with Section 51937) of Chapter 5.6 of, and to repeal the heading of Article 3 (commencing with Section 51934) of Chapter 5.6 of, Part 28 of Division 4 of Title 2 of, the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL'S DIGEST

AB 329, as amended, Weber. Pupil instruction: sexual health education.

(1) Existing law, the California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act, authorizes school districts to provide comprehensive sexual health education, consisting of age-appropriate instruction, in any of kindergarten and grades 1 to 12, inclusive, and requires school districts to ensure that all pupils in grades 7 to 12, inclusive, receive HIV/AIDS prevention education, as specified.

This bill would revise and recast these provisions to, among other things, integrate the instruction of comprehensive sexual health education and HIV prevention education. The bill would rename the California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act the California Healthy Youth Act. The bill would specify additional purposes of the act. The bill would instead require school districts to ensure that all pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education and HIV prevention education, as specified. By imposing additional requirements on school districts, this bill would impose a state-mandated local program.

(2) Existing law provides that these provisions do not apply to instruction or materials that discuss gender, sexual orientation, or family life and do not discuss human reproductive organs and their functions.

This bill would instead provide that these provisions do not apply to instruction, materials, presentations, or programming that discuss gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family and do not discuss human reproductive organs and their functions.

(3) This bill would also make conforming changes.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Chapter 5.6 (commencing with
2 Section 51930) of Part 28 of Division 4 of Title 2 of the Education
3 Code is amended to read:

4
5 CHAPTER 5.6. CALIFORNIA HEALTHY YOUTH ACT

6
7 SEC. 2. Section 51930 of the Education Code is amended to
8 read:

1 51930. (a) This chapter shall be known, and may be cited, as
2 the California Healthy Youth Act.

3 (b) The purposes of this chapter are as follows:

4 (1) To provide pupils with the knowledge and skills necessary
5 to protect their sexual and reproductive health from HIV and other
6 sexually transmitted infections and from unintended pregnancy.

7 (2) To provide pupils with the knowledge and skills they need
8 to develop healthy attitudes concerning adolescent growth and
9 development, body image, gender, sexual orientation, relationships,
10 marriage, and family.

11 (3) To promote understanding of sexuality as a normal part of
12 human development.

13 (4) To ensure pupils receive integrated, comprehensive, accurate,
14 and unbiased sexual health and HIV prevention instruction and
15 provide educators with clear tools and guidance to accomplish that
16 end.

17 (5) To provide pupils with the knowledge and skills necessary
18 to have healthy, positive, and safe relationships and behaviors.

19 SEC. 3. Section 51931 of the Education Code is amended to
20 read:

21 51931. For the purposes of this chapter, the following
22 definitions apply:

23 (a) “Age appropriate” refers to topics, messages, and teaching
24 methods suitable to particular ages or age groups of children and
25 adolescents, based on developing cognitive, emotional, and
26 behavioral capacity typical for the age or age group.

27 (b) “Comprehensive sexual health education” means education
28 regarding human development and sexuality, including education
29 on pregnancy, contraception, and sexually transmitted infections.

30 (c) “English learner” means a pupil as described in subdivision
31 (a) of Section 306.

32 (d) “HIV prevention education” means instruction on the nature
33 of ~~HIV~~ *human immunodeficiency virus (HIV)* and AIDS, methods
34 of transmission, strategies to reduce the risk of ~~human~~
35 ~~immunodeficiency virus (HIV)~~ *HIV* infection, and social and public
36 health issues related to HIV and AIDS.

37 (e) “Instructors trained in the appropriate courses” means
38 instructors with knowledge of the most recent medically accurate
39 research on human sexuality, healthy relationships, pregnancy,
40 and HIV and other sexually transmitted infections.

(f) “Medically accurate” means verified or supported by research conducted in compliance with scientific methods and published in peer-reviewed journals, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists.

(g) “School district” includes county boards of education, county superintendents of schools, the California School for the Deaf, and the California School for the Blind.

SEC. 4. Section 51932 of the Education Code is amended to read:

51932. (a) This chapter does not apply to description or illustration of human reproductive organs that may appear in a textbook, adopted pursuant to law, on physiology, biology, zoology, general science, personal hygiene, or health.

(b) This chapter does not apply to instruction, materials, presentations, or programming that discuss gender, gender identity, gender expression, sexual orientation, discrimination, harassment, bullying, intimidation, relationships, or family and do not discuss human reproductive organs and their functions.

SEC. 5. The heading of Article 2 (commencing with Section 51933) of Chapter 5.6 of Part 28 of Division 4 of Title 2 of the Education Code is amended to read:

Article 2. Required Comprehensive Sexual Health Education
and HIV Prevention Education

SEC. 6. Section 51933 of the Education Code is amended to read:

51933. All comprehensive sexual health education and HIV prevention education pursuant to Section 51934, whether taught or supplemented by school district personnel or by outside consultants or guest speakers pursuant to Section 51936, shall satisfy all of the following criteria:

(a) Instruction and materials shall be age appropriate.

(b) All factual information presented shall be medically accurate and objective.

1 (c) All instruction and materials shall align with and support
2 the purposes of this chapter as set forth in paragraphs (1) to (5),
3 inclusive, of subdivision (b) of Section 51930 and may not be in
4 conflict with them.

5 (d) (1) Instruction and materials shall be appropriate for use
6 with pupils of all races, genders, sexual orientations, and ethnic
7 and cultural backgrounds, pupils with disabilities, and English
8 learners.

9 (2) Instruction and materials shall be made available on an equal
10 basis to a pupil who is an English learner, consistent with the
11 existing curriculum and alternative options for an English learner
12 pupil as otherwise provided in this code.

13 (3) Instruction and materials shall be accessible to pupils with
14 disabilities, including, but not limited to, the provision of a
15 modified curriculum, materials and instruction in alternative
16 formats, and auxiliary aids.

17 (4) Instruction and materials shall not reflect or promote bias
18 against any person on the basis of any category protected by
19 Section 220.

20 (5) Instruction and materials shall affirmatively recognize that
21 people have different sexual orientations and, when discussing or
22 providing examples of relationships and couples, shall be inclusive
23 of same-sex relationships.

24 (6) Instruction and materials shall teach pupils about gender,
25 gender expression, gender identity, and explore the harm of
26 negative gender stereotypes.

27 (e) Instruction and materials shall encourage a pupil to
28 communicate with his or her parents, guardians, and other trusted
29 adults about human sexuality and provide the knowledge and skills
30 necessary to do so.

31 (f) Instruction and materials shall teach the value of and prepare
32 pupils to have and maintain committed relationships such as
33 marriage.

34 (g) Instruction and materials shall provide pupils with knowledge
35 and skills they need to form healthy relationships that are based
36 on mutual respect and affection, and are free from violence,
37 coercion, and intimidation.

38 (h) Instruction and materials shall provide pupils with knowledge
39 and skills for making and implementing healthy decisions about
40 sexuality, including negotiation and refusal skills to assist pupils

1 in overcoming peer pressure and using effective decisionmaking
2 skills to avoid high-risk activities.

3 (i) Instruction and materials may not teach or promote religious
4 doctrine.

5 SEC. 7. The heading of Article 3 (commencing with Section
6 51934) of Chapter 5.6 of Part 28 of Division 4 of Title 2 of the
7 Education Code is repealed.

8 SEC. 8. Section 51934 of the Education Code is amended to
9 read:

10 51934. (a) Each school district shall ensure that all pupils in
11 grades 7 to 12, inclusive, receive comprehensive sexual health
12 education and HIV prevention education from instructors trained
13 in the appropriate courses. Each pupil shall receive this instruction
14 at least once in junior high or middle school and at least once in
15 high school. This instruction shall include all of the following:

16 (1) Information on the nature of HIV, as well as other sexually
17 transmitted infections, and their effects on the human body.

18 (2) Information on the manner in which HIV and other sexually
19 transmitted infections are and are not transmitted, including
20 information on the relative risk of infection according to specific
21 behaviors, including sexual activities and injection drug use.

22 (3) Information that abstinence from sexual activity and injection
23 drug use is the only certain way to prevent HIV and other sexually
24 transmitted infections and abstinence from sexual intercourse is
25 the only certain way to prevent unintended pregnancy. Instruction
26 shall provide information about the value of delaying sexual
27 activity while also providing medically accurate information on
28 other methods of preventing HIV and other sexually transmitted
29 infections and pregnancy.

30 (4) Information about the effectiveness and safety of all federal
31 Food and Drug Administration (FDA) approved methods that
32 prevent or reduce the risk of contracting HIV and other sexually
33 transmitted infections, including use of antiretroviral medication,
34 consistent with the federal Centers for Disease Control and
35 Prevention.

36 (5) Information about the effectiveness and safety of reducing
37 the risk of HIV transmission as a result of injection drug use by
38 decreasing needle use and needle sharing.

39 (6) Information about the treatment of HIV and other sexually
40 transmitted infections, including how antiretroviral therapy can

1 dramatically prolong the lives of many people living with HIV
2 and reduce the likelihood of transmitting HIV to others.

3 (7) Discussion about social views on HIV and AIDS, including
4 addressing unfounded stereotypes and myths regarding HIV and
5 AIDS and people living with HIV. This instruction shall emphasize
6 that successfully treated HIV-positive individuals have a normal
7 life expectancy, all people are at some risk of contracting HIV,
8 and the only way to know if one is HIV-positive is to get tested.

9 (8) Information about local resources, how to access local
10 resources, and pupils' legal rights to access local resources for
11 sexual and reproductive health care such as testing and medical
12 care for HIV and other sexually transmitted infections and
13 pregnancy prevention and care, as well as local resources for
14 assistance with sexual assault and intimate partner violence.

15 (9) Information about the effectiveness and safety of all
16 FDA-approved contraceptive methods in preventing pregnancy,
17 including, but not limited to, emergency contraception. Instruction
18 on pregnancy shall include an objective discussion of all legally
19 available pregnancy outcomes, including, but not limited to, all of
20 the following:

21 (A) Parenting, adoption, and abortion.

22 (B) Information on the law on surrendering physical custody
23 of a minor child 72 hours of age or younger, pursuant to Section
24 1255.7 of the Health and Safety Code and Section 271.5 of the
25 Penal Code.

26 (C) The importance of prenatal care.

27 (10) Information about sexual harassment, sexual assault,
28 adolescent relationship abuse, intimate partner violence, and sex
29 trafficking.

30 (b) A school district may provide comprehensive sexual health
31 education or HIV prevention education consisting of
32 age-appropriate instruction earlier than grade 7 using instructors
33 trained in the appropriate courses. A school district that elects to
34 offer comprehensive sexual health education or HIV prevention
35 education earlier than grade 7 may provide age appropriate and
36 medically accurate information on any of the general topics
37 contained in paragraphs (1) to (10), inclusive, of subdivision (a).

38 SEC. 9. The heading of Article 4 (commencing with Section
39 51935) of Chapter 5.6 of Part 28 of Division 4 of Title 2 of the
40 Education Code is amended and renumbered to read:

Article 3. In-Service Training

SEC. 10. Section 51935 of the Education Code is amended to read:

51935. (a) A school district shall cooperatively plan and conduct in-service training for all school district personnel that provide ~~comprehensive sexual health education and~~ HIV prevention education, through regional planning, joint powers agreements, or contract services.

(b) In developing and providing in-service training, a school district shall cooperate and collaborate with the teachers of the district who provide ~~comprehensive sexual health education and~~ HIV prevention education and with the department.

(c) In-service training shall be conducted periodically to enable school district personnel to learn new developments in the scientific understanding of ~~sexual health, HIV, and other sexually transmitted infections~~. HIV. In-service training shall be voluntary for school district personnel who have demonstrated expertise or received in-service training from the department or federal Centers for Disease Control and Prevention.

(d) A school district may expand HIV in-service training to cover the topic of comprehensive sexual health education in order for school district personnel who provide comprehensive sexual health education to learn new developments in the scientific understanding of sexual health.

SEC. 11. Section 51936 of the Education Code is amended to read:

51936. School districts may contract with outside consultants or guest speakers, including those who have developed multilingual curricula or curricula accessible to persons with disabilities, to deliver comprehensive sexual health education and HIV prevention education or to provide training for school district personnel. All outside consultants and guest speakers shall have expertise in comprehensive sexual health education and HIV prevention education and have knowledge of the most recent medically accurate research on the relevant topic or topics covered in their instruction.

SEC. 12. The heading of Article 5 (commencing with Section 51937) of Chapter 5.6 of Part 28 of Division 4 of Title 2 of the Education Code is amended and renumbered to read:

Article 4. Notice and Parental Excuse

SEC. 13. Section 51937 of the Education Code is amended to read:

51937. It is the intent of the Legislature to encourage pupils to communicate with their parents or guardians about human sexuality and HIV and to respect the rights of parents or guardians to supervise their children's education on these subjects. The Legislature intends to create a streamlined process to make it easier for parents and guardians to review materials and evaluation tools related to comprehensive sexual health education and HIV prevention education, and, if they wish, to excuse their children from participation in all or part of that instruction or evaluation. The Legislature recognizes that while parents and guardians overwhelmingly support medically accurate, comprehensive sex education, parents and guardians have the ultimate responsibility for imparting values regarding human sexuality to their children.

SEC. 14. Section 51938 of the Education Code is amended to read:

51938. (a) A parent or guardian of a pupil has the right to excuse their child from all or part of comprehensive sexual health education, HIV prevention education, and assessments related to that education through a passive consent ("opt-out") process. A school district shall not require active parental consent ("opt-in") for comprehensive sexual health education and HIV prevention education.

(b) At the beginning of each school year, or, for a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil's enrollment, each school district shall notify the parent or guardian of each pupil about instruction in comprehensive sexual health education and HIV prevention education and research on pupil health behaviors and risks planned for the coming year. The notice shall do all of the following:

(1) Advise the parent or guardian that written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education are available for inspection.

(2) Advise the parent or guardian whether the comprehensive sexual health education or HIV prevention education will be taught by school district personnel or by outside consultants. A school

1 district may provide comprehensive sexual health education or
2 HIV prevention education, to be taught by outside consultants,
3 and may hold an assembly to deliver comprehensive sexual health
4 education or HIV prevention education by guest speakers, but if
5 it elects to provide comprehensive sexual health education or HIV
6 prevention education in either of these manners, the notice shall
7 include the date of the instruction, the name of the organization
8 or affiliation of each guest speaker, and information stating the
9 right of the parent or guardian to request a copy of this section,
10 Section 51933, and Section 51934. If arrangements for this
11 instruction are made after the beginning of the school year, notice
12 shall be made by mail or another commonly used method of
13 notification, no fewer than 14 days before the instruction is
14 delivered.

15 (3) Include information explaining the parent's or guardian's
16 right to request a copy of this chapter.

17 (4) Advise the parent or guardian that the parent or guardian
18 has the right to excuse their child from comprehensive sexual
19 health education and HIV prevention education and that in order
20 to excuse their child they must state their request in writing to the
21 school district.

22 (c) Notwithstanding Section 51513, anonymous, voluntary, and
23 confidential research and evaluation tools to measure pupils' health
24 behaviors and risks, including tests, questionnaires, and surveys
25 containing age-appropriate questions about the pupil's attitudes
26 concerning or practices relating to sex, may be administered to
27 any pupil in grades 7 to 12, inclusive. A parent or guardian has
28 the right to excuse their child from the test, questionnaire, or survey
29 through a passive consent ("opt-out") process. A school district
30 shall not require active parental consent ("opt-in") for these tests,
31 questionnaires, or surveys in grades 7 to 12, inclusive. Parents or
32 guardians shall be notified in writing that this test, questionnaire,
33 or survey is to be administered, given the opportunity to review
34 the test, questionnaire, or survey if they wish, notified of their right
35 to excuse their child from the test, questionnaire, or survey, and
36 informed that in order to excuse their child they must state their
37 request in writing to the school district.

38 (d) The use of outside consultants or guest speakers as described
39 in paragraph (2) of subdivision (b) is within the discretion of the
40 school district.

1 SEC. 15. Section 51939 of the Education Code is amended to
2 read:

3 51939. (a) A pupil may not attend any class in comprehensive
4 sexual health education or HIV prevention education, or participate
5 in any anonymous, voluntary, and confidential test, questionnaire,
6 or survey on pupil health behaviors and risks, if the school has
7 received a written request from the pupil's parent or guardian
8 excusing the pupil from participation.

9 (b) A pupil may not be subject to disciplinary action, academic
10 penalty, or other sanction if the pupil's parent or guardian declines
11 to permit the pupil to receive comprehensive sexual health
12 education or HIV prevention education or to participate in
13 anonymous, voluntary, and confidential tests, questionnaires, or
14 surveys on pupil health behaviors and risks.

15 (c) While comprehensive sexual health education, HIV
16 prevention education, or anonymous, voluntary, and confidential
17 test, questionnaire, or survey on pupil health behaviors and risks
18 is being administered, an alternative educational activity shall be
19 made available to pupils whose parents or guardians have requested
20 that they not receive the instruction or participate in the test,
21 questionnaire, or survey.

22 SEC. 16. If the Commission on State Mandates determines
23 that this act contains costs mandated by the state, reimbursement
24 to local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.